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May 4, 1995

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Mr. Scott B. Harris
Chief, International Bureau
Federal Communications Commission
2000 M Street, NW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: COMSAT Regulation: RM-7913; File Nos. I-S-P-91-004
and I-S-P-92-001; File Nos. I-S-P-85-002, I-S-P-88-
006 and I-S-P-92-005; RM-7931

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Dear Mr. Harris:

At our meeting on March 29, you encouraged us to submit a list of the "top ten" burdensome regulations currently applied to COMSAT which, if eliminated or modified, would benefit consumers of international telecommunications services and foster competition. We at COMSAT very much appreciate this invitation. Discussed below are five long-pending matters involving COMSAT which we believe are ripe for immediate action. There are many other areas where regulatory relief for COMSAT would be warranted, and we plan to address those matters in the appropriate proceedings, such as the Commission's NPRM on domestic and international satellite services.

At the outset, it is important to recognize that nearly all of the economic regulation applied to COMSAT is predicated on a belief that the company possesses monopoly power in the international telecommunications market. This is said to stem from our Signatory role as the exclusive provider of Intelsat and Inmarsat satellite services in the United States. When COMSAT was first created pursuant to Act of Congress in 1962 and given the statutory mission of developing these global satellite systems, the view that COMSAT was a monopolist was indeed valid, and it continued to be so for about twenty years. As you are well aware, however, dramatic market, technological, and regulatory policy changes have taken place in international telecommunications over the last decade, and at an ever-accelerating pace.

For example, in 1985 when the FCC last examined COMSAT's market power and tailored its regulation accordingly, no trans-oceanic fiber-optic cables or U.S. international satellite systems separate from Intelsat even existed. Since then, high-capacity, all-digital, fiber-optic cables have effectively girdled the earth, and numerous international and regional satellite systems have been

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launched. Moreover, the Inmarsat system -- in which users are free to route their calls through any of the many earth stations operating in each satellite region -- was designed to promote intrasystem competition, and today faces strong and growing intersystem competition from HF and cellular radio, regional satellite systems, and the recently launched American Mobile Satellite System. Today, the degree of competition COMSAT faces in all geographic and product markets it serves is intense, and U.S. consumers have a multitude of choices available for transmitting communications overseas. Thus, captive reliance on the Intelsat and Inmarsat space segment for these purposes is truly a thing of the past.

Nothing makes a more compelling case for relaxing the regulation of COMSAT than a review of the facts. In perhaps the most comprehensive and contemporaneous economic study of the market for trans-oceanic facilities-based telecommunications services ever undertaken, Professor Hendrik S. Houthakker of Harvard University, in conjunction with The Brattle Group, concluded in a study submitted to the Commission in July 1994 (RM-7913) that:

COMSAT faces substantial effective competition in all geographic and service market segments from existing and planned fiber optic cables and separate satellite facilities, as well as from the threat of entry. Stated differently, while COMSAT possesses a legal monopoly on access to the Intelsat system in the U.S., that franchise no longer confers upon COMSAT any market power. In an environment characterized by effective competition, a streamlining of regulatory oversight would be appropriate.

Brattle Group Study at 3.

Beyond these findings, Professor Houthakker reached a conclusion of particular relevance to the reason you requested this letter. Specifically, he observed that "a regulated firm that has lost market power because of the emergence of effective competition may not be able to compete fully if regulation restricts pricing flexibility relative to unregulated competitors or if it prevents the firm from pricing at the competitive level. In such cases, the public interest would require regulation to adjust to these changes in market power to ensure a level playing field and fair competition." Id. at 14. This, of course, is precisely where COMSAT finds itself today. Indeed, one of COMSAT's separate system competitors, Pan American Satellite, has specifically touted in a securities prospectus the fact that, unlike common carriers which are "subject to extensive regulation," it is "free to set prices and serve customers according to its business judgment, without rate of return or price cap regulation or the obligation not to discriminate among customers, and with minimal governmental scrutiny of its business decisions." PanAmSat Corporation, Amendment No. 5 to Form

S-1 Registration Statement, as filed with the Securities and Exchange Commission on April 13, 1995, at 60.

With that background, some specific regulations applied to COMSAT that no longer serve the public interest and impede its ability to compete efficiently are set forth below.

1. Rate Base/Rate-of-Return Regulation

COMSAT may be the last remaining common carrier subject to full FCC jurisdiction that continues to be rate base/rate-of-return regulated. The Commission has long recognized that this approach to rate regulation is inferior from both the ratepayer and carrier perspectives, and that price-cap review better serves the public interest. This is especially true where effective competition exists. Accordingly, in January 1992, COMSAT submitted to the FCC a Petition for Rulemaking seeking such incentive-based regulation (RM-7913). COMSAT also sought at that time streamlined tariff regulation for certain services. Although the public comment cycle was completed years ago, no action has been taken. Thus, for the same public interest reasons that the Commission has departed from rate base/rate-of-return regulation for all other international and major domestic carriers, COMSAT respectfully requests that its petition for incentive-based regulation be granted.

2. Dominant Carrier Tariff Regulation

The separate international satellite systems that compete against COMSAT are currently deemed to be non-common carriers, and therefore file no tariffs with the FCC at all, nor are they subject to any form of Title II regulation. This gives them the flexibility to price services on an individual case basis, make proposals just below the tariff rates COMSAT files without concerns about regulatory scrutiny, and delay COMSAT's ability to serve customers quickly by routinely challenging COMSAT's tariff filings (even though these challenges are consistently denied). In addition, common carrier operators of trans-oceanic fiber optic cable systems can file tariffs on just fourteen days notice, with minimal cost support and a presumption of lawfulness (e.g., MCI and Sprint). Even AT&T, a dominant carrier, is permitted to file on fourteen days notice for certain of its international service offerings. COMSAT, however, is still subject to the full forty-five day tariff notice period and cost support requirements associated with dominant carrier regulation for all of its tariffed services.

Because of the competitive imbalance this situation has created, on July 1, 1994, COMSAT submitted a Petition for Partial Relief in RM-7913. Specifically, we asked only for

streamlined tariff regulation of our Intelsat satellite offerings to enable COMSAT to file its tariffs on fourteen days notice, and with minimal cost support and a presumption of lawfulness. It is in conjunction with that request that The Brattle Group Study was submitted. The pleading cycle in that proceeding was completed in September 1994, but no further action has occurred. COMSAT respectfully submits that the need to subject its tariffs to full dominant carrier tariff regulation is inconsistent with current market conditions. While our non-common carrier satellite competitors can quickly respond to customer requests for specially tailored services and need not file tariffs or prepare cost justification, all that COMSAT is seeking is a partial reduction in tariff regulation to somewhat level the playing field. We again respectfully request expedited action on the pending Petition for Partial Relief.

3. Structural Separation Regulation

As competition in international telecommunications has increased, the decade-old COMSAT Structure Orders¹ have become sorely outmoded and have negatively impacted the ability of COMSAT to grow its businesses in an efficient, rational or timely manner. For example, while the FCC has made some important initial decisions to relieve COMSAT Mobile Communications ("CMC") from structural separation regulation, as a practical matter nothing has changed because CMC cannot implement that ruling without further agency actions.

Specifically, in March 1993, the Commission granted CMC some structural relief by allowing it to provide, on an unseparated basis, four categories of "value-added services" to its maritime customers: terminals and other shipboard equipment; communications-related software; enhanced services; and non-Inmarsat communications services (such as cellular service to cruise lines wishing to use both satellite and cellular services). However, the FCC also conditioned the effectiveness of this structural separation relief on Bureau approval of a COMSAT compliance filing, including a cost accounting manual and proposed non-accounting safeguards.

COMSAT submitted its detailed compliance filing (in two parts) in January and February 1994. Since that time, COMSAT has regularly been assured that the staff has identified no shortcomings. Nevertheless, the Bureau has not yet approved

¹Changes in the Corporate Structure and Operations of the Communications Satellite Corporation, 90 F.C.C. 2d 1159 (1982), recon., 93 F.C.C. 2d 701 (1983) (First Structure Orders); 97 F.C.C. 2d 145 (1984), recon., 99 F.C.C. 2d 1040 (1984) (Second Structure Orders).

either the cost accounting manual or the non-accounting safeguards. Thus, while COMSAT has obtained the legal ability to offer some value-added services on an integrated basis, the full public interest benefit of the Commission's decisions cannot be realized. COMSAT has now been waiting almost 3 1/2 years for this relief, and its ability to compete broadly on an even footing with its market rivals is hanging on this delay. COMSAT therefore respectfully asks the Bureau to approve its pending compliance filings promptly.

4. Capitalization Regulation

Under the Satellite Act, the Commission must authorize COMSAT to borrow money or assume the obligations of any other entity. The Satellite Act, however, also leaves to the discretion of the Commission how best to fulfill this obligation. The Commission initially exercised this authority on a transaction-by-transaction basis. Since 1983, COMSAT has been allowed instead to file annual capitalization plans consistent with previously-approved financing guidelines.

Although the filing of annual capitalization plans was an improvement over the previous ad hoc approach, over a decade of experience by the Commission now shows that this area of regulation deserves a new look. In the modern world of finance, COMSAT lacks the flexibility it needs to meet its consolidated financing requirements in the most cost-effective manner. In fact, COMSAT has twice asked the Commission to approve a form of regulatory oversight wherein the FCC would accept as binding those limitations imposed in COMSAT's financing agreements, rather than have the agency prescribe its own ratios and guidelines. This approach would ensure ultimate Commission authority over COMSAT's capitalization requirements as mandated by the Satellite Act, but would also allow COMSAT to take advantage of contemporary corporate financing vehicles. Moreover, COMSAT's competitors are free to pursue all forms of debt and equity financing without such prior regulatory approvals. To date, however, the Commission has not responded to COMSAT's requests for regulatory parity in this area.

5. Licensing of International Receive-Only Earth Stations

Lastly, although it does not involve a COMSAT-specific matter, there is one other matter pending at the Commission in which COMSAT has a very strong interest: the proposed deregulation of international receive-only earth stations. Indeed, COMSAT was the initial requestor for the initiation of this rulemaking proceeding, and believes that it is long overdue in terms of more equitable and rational regulatory treatment for receive-only earth stations accessing any international satellite system.

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I trust this letter adequately responds to your request, and helps you appreciate just how burdensome and costly the above-described regulations have become to COMSAT, and why they have outlived their usefulness given the intense market competition that exists today. Again, thank you for the opportunity to bring these matters directly to your attention.

Respectfully submitted,

A handwritten signature in cursive script that reads "Warren Zeger". The signature is written in dark ink and is positioned above the printed name.

Warren Y. Zeger